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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,803	01/13/2004	Roy K. Greenberg	8627-384	1524
757	7590	01/04/2006	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			GHERBI, SUZETTE JAIME J	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/756,803

Applicant(s)

GREENBERG ET AL.

Examiner

Suzette J. Gherbi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 12, 15, 16 and 21-23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 13, 14, 17-20, 24-30 and 32 is/are allowed.
- 6) ☒ Claim(s) 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/21/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendment dated 11/2/05 has been received in application serial number 10/756803. All comments have been taken into careful consideration.

Claim Rejections - 35 USC § 102

3.. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Shmulewitz 5,961,548. Shmulewitz discloses the invention as currently claimed comprising: A method of providing a prosthetic trunk/first section (11); providing a prosthetic branch having a proximal and distal end (15, 25); "anastomosing" the proximal end of the prosthetic branch to the trunk (figure 6c and col. 5, lines 24-24); and positioning the prosthetic branch and attaching the branch to the trunk so as to provide a helical fluid passage (*it is inherent that a helical fluid passage is provided because the branch 15 is helical and the blood flows through this passage and it is also pointed out that a helical fluid passage is completely different from a fluid passage in a helical direction.*

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bottcher et al. 6,620,202. Bottcher et al. discloses the invention as claimed comprising: providing a prosthetic trunk(22, 222); providing a prosthetic branch (24, 214, 224) with proximal and distal end and positioning the branch and attaching the branch to the trunk so as to provide a helical fluid passage (see col. 1, lines 51-54 which discloses a first and second lumen in the trunk and the branch) however Bottcher et al. does not specify the term "anastomosing". However Botcher et al. does state (see figure 14 and col. 8, lines 26-30) that the coil is "attached" to the shaft of the stent 210 at the neck. It would have been obvious to one having ordinary skill in the art at the time the invention was made to "anastomos" the coiled branch to the truck because both structures are already in fluid communication with one another and by "anastomosing" would provide a greater volume of fluid passage.

Allowable Subject Matter

7. Claim1-11, 13, 14, 17-20, 24-30, 32 are allowed.

Response to Arguments

8. Applicant's arguments filed 11/2/05 have been fully considered but they are not persuasive. Applicant contends that the device of Shmulewitz does not have a helical fluid passage, but merely a straight fluid passage. It is the examiners opinion that the limitation can be interpreted in more than one way. The branch 15 of Shmulewitz is described as being a helical col. (see col. 3, line 63). The helical coil definitely has a luminal passageway and therefore does provide what is required by the limitation a helical fluid passage. As stated in the interview conducted 7/18/05 the claim does not require that the *fluid passage in a helical direction*. The examiner believes that this type of limitation would be novel over prior art and is different than what is currently claimed.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

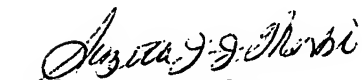
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzette J. Jackson whose work schedule is Monday-Friday 9-6:30 off every other Friday and whose telephone number is 571-272-4751.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


Suzette J-J Gherbi
29 December 2005